

THE HON. JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PREMIER HARVEST LLC, a Washington Limited Liability Company; PREMIER HARVEST LLC, a Alaska Limited Liability Company; PREMIER HARVEST ADAK LLC, an Alaska Limited Liability Company,

Plaintiffs,

V.

AXIS SURPLUS INSURANCE COMPANY, a
Foreign Corporation; CUNNINGHAM
LINDSEY U.S., INC., a Foreign Corporation,

Defendants.

No.: 17-cv-00784-JCC

**DECLARATION OF JONATHAN
TOREN IN SUPPORT OF AXIS
SURPLUS INSURANCE
COMPANY'S MOTION TO
COMPEL PRODUCTION OF
COMMUNICATIONS WITH
ROBERT MCMILLEN**

1. I am over the age of eighteen and am competent to testify to the facts and matters contained herein, which are based upon my personal knowledge.

2. I am an attorney at Cozen O'Connor, representing Defendant AXIS Surplus Insurance Company ("AXIS") in this matter.

3. Attached as Exhibit A is a true and correct copy of Premier Harvest's revised privilege log, which was provided to AXIS on July 27, 2018. The disputed entries that are the subject of AXIS's Motion to Compel are highlighted in yellow.

DECLARATION OF JONATHAN TOREN IN SUPPORT OF
AXIS SURPLUS INSURANCE COMPANY'S MOTION TO
COMPEL - 1
NO.: 17-CV-00784-JCC

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LAW OFFICES OF
COZEN O'CONNOR
A PROFESSIONAL CORPORATION
999 THIRD AVENUE
SUITE 1900
SEATTLE, WASHINGTON 98104
(206) 340-1000

1 4. Attached as Exhibit B is a true and correct copy a February 9, 2016 letter from
2 Robert McMillen to Bruce Thiffault, as emailed from Amy O'Rorke to AXIS on February 10,
3 2016 [ASIC_CLM0000273-276].

4 5. Attached as Exhibit C is a true and correct copy of Amy O'Rorke's notes
5 regarding a telephone conference with McMillen and Dustin Anderson, dated March 28, 2016.
6 [ASIC_CLM0002087-2091].

7 6. Attached as Exhibit D is a collection of Alaska Department of Fish and Game
8 Electronic Crab Fish Tickets, as produced by Premier Harvest to AXIS. [ASIC_CLM 5047;
9 PH_000050-56, and PH_000127-134].

10 7. Attached as Exhibit E is a true and correct copy of a February 15, 2016 excel
11 spreadsheet titled Repairs to Blue Shed Fire Sprinkler System as provided by Dustin Anderson
12 to AXIS on February 16, 2016 [ASIC_CLM0001663].

13 8. Attached as Exhibit F is a true and correct copy of a January 19, 2016 email from
14 Dustin Anderson to David W. Northall responding to questions/topics regarding phone call
15 follow-up [MKA0011260-11262].

16 9. Attached as Exhibit G is a true and correct copy of a January 28, 2016 email from
17 Dustin Anderson to Amy O'Rorke and David Northall, with copies to Robert McMillen, Lisa
18 Anderson and Ellie Garcia [MKA0010838-10840].

19 10. Attached as Exhibit H is a true and correct copy of a document titled "Draft Final
20 Report" provided by Dustin Anderson to AXIS on February 16, 2016 [ASIC_CLM0001656-
21 1660].

22 11. Attached as Exhibit I is a true and correct copy of a July 22, 2016 letter from
23 Dustin Anderson to Amy O'Rorke [ASIC_CLM0002432-2440].

24 12. Attached as Exhibit J is a true and correct copy of the Final Report of Wiss,
25 Janney, Elstner Associates, Inc., dated June 15, 2018.

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DECLARATION OF JONATHAN TOREN IN SUPPORT OF
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COMPEL - 2
NO.: 17-CV-00784-JCC
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13. Attached as Exhibit K is a true and correct copy of excerpts from the transcript of the May 24, 2018 deposition of David J. Porter [10:21-13:12; 16:20-17:9; 18:18-22; 19:7-12; 24:23-25:23, 29:10-18, 34:8-15, 36:4-13, 36:7-38:15; 41:17-42:22; 51:22-55:11; 58:1-7].

14. Attached as Exhibit L is a true and correct copy of excerpts from the transcript of the June 5, 2018 deposition of Robert Manly [11:25-13:13; 13:14-16:17; 26:23-30:16, 32:13-32:23; 40:3-8, 59:15-62:10].

15. Attached as Exhibit M is a true and correct copy of excerpts from the transcript of the July 9, 2018 deposition of Cody Manson [46:3-48:16].

16. Attached as Exhibit N is a true and correct copy of excerpts from the transcript of the May 21, 2018 deposition of David L. Anderson [90:5 – 91:16, 134:5-24;145:25-146:13; 172:5-177:4].

17. Attached as Exhibit O is a true and correct copy of October 8, 2015 Dustin Anderson email exchange with David L. Anderson re Alaska Work [DaLA_AB0007623-7624, Dep Ex. 37]

18. Attached as Exhibit P is a true and correct copy of excerpts from the transcript of the August 30, 2017 Examination Under Oath of Lisa Anderson [71:6-25].

19. Attached as Exhibit Q is a true and correct copy of excerpts from the transcript of the July 19, 2018 deposition of Robert G. McMillen [38:1-9; 60:2-62:-23; 65:21-67:2, 79:11-25; 83:10-15; 97:8-98:11, 145:4-146:10].

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

DATED AND SIGNED this 28th day of August, 2018, at Seattle, Washington.

/s/ Jonathan Toren
Jonathan Toren

DECLARATION OF JONATHAN TOREN IN SUPPORT OF
AXIS SURPLUS INSURANCE COMPANY'S MOTION TO
COMPEL - 3
NO.: 17-CV-00784-JCC

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date, I electronically filed the foregoing document with the
3 Clerk of the Court using the CM/ECF system which will send notification of such filing to all
4 counsel of record.

5 DATED AND SIGNED this 13th day of September, 2018.

6 COZEN O'CONNOR

7
8 By: /s/ Bonnie L. Buckner
9 Bonnie L. Buckner, Legal Secretary
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11 Seattle, Washington 98104
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DECLARATION OF JONATHAN TOREN IN SUPPORT OF
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COMPEL - 4
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